

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Monday, September 28, 2015
6:30 PM**

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 6:32 p.m. Also present were Vice Mayor Chris Vincent, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Elliot Sokolow, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Assistant to the Town Manager Pat Himelberger, Town Planner/Assistant Development Services Director Linda Connors, Town Attorney Susan L. Trevarthen, Finance Director Tony Bryan, Municipal Services Director Don Prince, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pastor Jim Goldsmith gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

a. Update on Commercial Boulevard Mid-Block Project (Connie Hoffmann, Town Manager)

Judd Adams of State Contracting and Engineering reported the status of the north side: sidewalk pavers are 95% complete, light pole bases have been delivered, and irrigation and landscaping will begin once the light pole installation is complete. The project lost a few days recently due to heavy rain. Nighttime intersection closures will include A1A at Commercial Boulevard and Seagrape Drive. These intersections will be closed at 9 p.m. and will reopen at 6 a.m.

Jay Flynn of Flynn Engineering stated that the project's design for the roadway and sidewalk included widening of the sidewalk, which slopes from the buildings toward the roadway and the road slopes from the center of Commercial Boulevard back towards the edge paving. Because the sidewalk now extends further to the south, it cuts into a cross-slope from the center line of the roadway to the north. The curb and gutter have been

constructed on the north side and are lower than the existing edge of the asphalt as a result of the two slopes.

Mr. Flynn explained that core borings of the asphalt were taken in order to determine how much asphalt and rock base there was in the roadway. Those borings met Florida Department of Transportation's (FDOT) requirements for 3.5 in. of asphalt and 12 in. of lime rock base. However, during construction, it was determined that the block east of Bougainvillea Drive has multiple sections with only 8 in. of lime rock base. This means the project no longer meets the minimum pavement design for this block. Flynn went back to FDOT with an alternate pavement design that will place a thicker asphalt base on top of the existing lime rock base, which FDOT approved. This means there will be more expense.

While there are fewer problems with the western block of the project, FDOT is requiring that the pavement section be uniform in both blocks. This means an asphalt base must be added in the western block as well. It is not yet known if the same process will need to be followed on the south side of Commercial Boulevard. That won't be known until the road is excavated for the drainage structures.

Mr. Adams advised that because this portion of the project is night work and can be done concurrently with the day work, it should not affect the overall schedule of the project. Pricing for the additional base has not yet been determined.

Town Manager Connie Hoffmann advised that the estimated highest price range for this additional work on the north side of the project is \$70,000, while the low range is approximately \$35,040. She asked the Commission if it would be acceptable to request approval after the fact if the cost is determined to be \$50,000 or below. If the cost is more than \$50,000, a special meeting could be called to approve it. She cautioned that the cost range stated above was for the north side of the project only, and could increase significantly if the same costs were required for the south side.

The Commission agreed by consensus to authorize the Town Manager to proceed with the changes necessary, without requiring a special meeting for approval. The Town Manager noted that funds for these additional expenses will likely have to come from the Capital Projects Contingency Fund.

Mr. Adams advised that the south side of the project is currently in a holding pattern while awaiting action by Teco Gas, which must move two lines in order for the project to proceed. However, he felt if the project team continues the pace set on the north side, the curbs, drainage, and bricks could be in place on the south side prior to the original completion date of Thanksgiving week, with a possible delay in landscaping and erection of light poles. This would prevent any undue impacts on nearby businesses.

Town Manager Hoffmann expressed frustration in working with TECO Gas, as the Town had advised them of the work they would need to do last Spring and TECO had committed

to do the work in August. When August came, they advised they were not ready but would do it in early September. When they finally started it in late September, they were stopped by FDOT because they did not have an FDOT M.O.T. permit.

b. Basin Drive Project Update (Connie Hoffmann, Town Manager)

Municipal Services Director Don Prince reported that difficulties have also occurred on the Basin Drive project. A sewer main was struck during the installation of the first structure. That repair took a considerable time. To avoid similar problems, he felt it would be prudent to either replace the rest of the sewer pipe or line it. Replacing it would significantly delay the project and cost more than lining the pipe, so he recommended lining the pipe from manhole to manhole. Mr. Prince had researched other cities' contracts for such lining work and found Miller Pipe was working in Fort Lauderdale via a piggyback on a Lee County project. He received a quote of \$14,788 from Miller just before the meeting, which is considerably less than the estimate received from another contractor. However, because he had just received the quote and was unsure it was consistent with pricing in the Lee County contract, he asked the Commission to approve it but also waive the purchasing policy in the event that prices are not consistent with the prices in the Lee County quote as the work needed to get done.

It was noted that this Item would be submitted for Commission approval under New Business, Item 13c. Mayor Sasser suggested that this Item be taken out of order on the Agenda at this time.

13c. Basin Drive Emergency Sewer Lining (Connie Hoffmann, Town Manager)

At this time Mayor Sasser opened the item to public comment, which he closed upon receiving no input.

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve, and to waive the purchasing policy if necessary. Motion carried 5-0.

Town Manager Hoffmann advised that businesses and residents in this area have been very patient with these developments over the past few weeks.

6. PUBLIC COMMENTS

At this time Mayor Sasser opened public comment.

Edmund Malkoon, resident, advised that he had attended a meeting of the A1A Corridor group on September 17, 2015. These meetings will now be held on a quarterly basis and will focus on implementing the marketing plan, as well as discussion of other County and municipal projects. He requested higher-resolution images from the Town for placement on the www.sunny.org website.

Mr. Malkoon continued that there is a newly-funded State program called Shared Use Non-motorized Trails, or SUN Trails. He suggested that El Mar Drive may be eligible for program funds in order to move up the construction date for the greenway project.

He also addressed the Commercial Boulevard Mid-Blocks project, suggesting that the median in the first block of A1A be converted from concrete to landscaping.

With no other individuals wishing to speak at this time, Mayor Sasser closed public comment.

7. PUBLIC SAFETY DISCUSSION

a. VFD August 2015 Report (Chief Judson Hopping)

The Commissioners accepted the report without comment.

8. TOWN MANAGER REPORT

a. August Finance Report (Tony Bryan, Finance Director)

The Commissioners accepted the report without comment.

b. Chamber of Commerce August 2015 Report (Tedra Smith, Town Clerk)

The Commissioners accepted the report without comment.

c. Town Manager Report (Connie Hoffmann, Town Manager)

Town Manager Hoffmann noted recent discussions between the Town and the Florida Development Group. She advised that the Group no longer plans to demolish the Captain's Quarters Hotel, planning instead to renovate the existing structure. It will not be branded as part of a complex with other former hotels.

She continued that the Group will submit architectural plans for the old Holiday Inn and Villa Caprice site at a meeting with Town Staff on September 29, 2015. The Group is aware they must paint the boards before their marketing/construction trailer can be permitted. They have also hired a landscaping contractor to keep up the area around the former Holiday Inn.

Assistant Development Services Director/Town Planner Linda Connors added that the Florida Development Group is interested in working with the Town to place parking meters in front of the Villa Caprice for temporary beach parking. Ms. Connors advised that the Florida Development Group plans to remove the chain link fencing around the Holiday Inn site and replace it with wood fencing to secure the property. She also clarified that the

Florida Development Group has permits for windows, demolition, and 40-year inspection repairs on the former Clarion site. Vice Mayor Vincent recommended ensuring that the Florida Development Group remove any trash removed from the building.

Asst. Director Connors confirmed that the Florida Development Group is being fined over \$750/day on the Holiday Inn site and over \$1000/day on the Villa Caprice site for code violations. The mitigation the Commission approved earlier of the fines was conditional on the Florida Development Group meeting specific milestones; because these milestones were not met, fines are still accruing. Town Staff has advised the Florida Development Group that demolition of the Villa Caprice would stop the fines; however, the Group does not wish to demolish the building in order to preserve certain nonconformities on the site.

Vice Mayor Vincent asked if the Town has assisted the Florida Development Group in determining legal nonconformities on their property, as well as existing structural defects that do not meet Code requirements. The developer has not reached out to Staff for a review of nonconformities, although they are working on a plan for new construction on the site. It was noted that the architect and project manager for all their projects have changed.

Commissioner Sokolow addressed the former Clarion property, asking if the developer feels the interior demolition can be accomplished in roughly 60 days. Asst. Director Connors confirmed that this was not realistic. The exterior design for this site has been finalized, including an entrance on El Mar Drive. Town Manager Hoffmann expressed her opinion that, while the architectural plan for that site was not the grand plan once presented, the exterior appearance of this property would improve substantially.

Mayor Sasser asked if decisions on these properties made by the Town Commission should come back to the Commission if the developer has made subsequent changes to architectural aspects. Asst. Director Connors and Town Manager Hoffmann answered that site plan revisions must come to the Commission. Town Manager Hoffmann added that Town Staff has communicated their frustration to the owner and his team with the lack of progress on these sites, despite the Town's accommodations in fast tracking reviews for them.

Asst. Director Connors added that the property at 4560 El Mar Drive, for which a site plan has been approved, lies east of the coastal construction control line, which requires a permit from FDEP. The developer has submitted this permit request. The Town has requested that the developer submit a building permit to the Town while they await FDEP approval.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

- a. **September 8, 2015 Town Commission Meeting Minutes (Tedra Smith, Town Clerk)**
- b. **September 11, 2015 Town Commission Special Meeting (1st Public Budget Hearing) (Tedra Smith, Town Clerk)**

Commissioner Sokolow made a motion, seconded by Commissioner Dodd, to approve September 8 and September 11, 2015. Motion carried 5-0.

11. CONSENT AGENDA

- a. **Christmas by the Sea Event Permit (Pat Himelberger, Assistant to the Town Manager)**
- b. **October 1, 2015 Solid Waste and Recycling Collection Rates (Bud Bentley, Assistant Town Manager)**
- c. **First Amendment of the GMP with State Contracting & Engineering Corporation Construction of the Commercial Boulevard Mid Blocks Streetscape Project (Connie Hoffmann, Town Manager)**

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve. Motion carried 5-0.

12. OLD BUSINESS

None.

13. NEW BUSINESS

- a. **Possible County Ordinance regarding Police flexibility in dealing with possession of small amounts of marijuana (Commissioner Eliot Sokolow)**

Commissioner Sokolow recalled that Broward County Vice Mayor Martin Kiar had raised this issue at a recent Florida League of Cities meeting to determine if there is support for the County if they pass such an Ordinance. The proposed County Ordinance states that any juvenile arrested for less than 20 grams of marijuana will receive a citation rather than arrest. This would also apply to individuals who have no prior arrest record. The intent is to prevent sending individuals to jail or creating a criminal record on the basis of minor possession.

Vice Mayor Vincent commented that members of the County Commission have raised valid concerns with the proposed Ordinance, including how many times an individual may be cited before the number of citations constitute a criminal record. Concerns have also been raised regarding the possibility of individuals driving under the influence of marijuana, as well as dictating this Ordinance for individual municipalities rather than letting those cities hear input from their residents. He stated that he was supportive of the proposed Ordinance as long as these concerns are addressed.

Commissioner Brown indicated his support of the proposed Ordinance as well, although he noted that any vote by the Commission would be symbolic. Mayor Sasser and Commissioner Dodd stated that they were also supportive of the proposed Ordinance.

Town Attorney Susan Trevarthen addressed the language of the draft Ordinance, clarifying that it would allow cities to opt out of the County-wide program by vote. She advised that the statutory references in the Ordinance are Code Enforcement references, as individuals would be subject to a fine rather than to jail under the Ordinance. She concluded that the Ordinance should not be considered legalization of marijuana, as it affects only the potential penalties within certain situations.

It was noted that the Commissioners reached consensus on communicating their support for the proposed Ordinance to the Board of County Commissioners.

b. Construction Extension for 1900 E. Terra Mar Drive (Linda Connors, Assistant Development Services Director / Town Planner)

Mayor Sasser advised that he would abstain from voting upon this Item, as his house is within 50 yards of the subject property. It was clarified that he would be able to participate in discussion of the Item.

Asst. Director Connors advised that the request is for extension of the construction of the exterior and interior renovation of the property at 1900 East Terra Mar Drive. Town Code requires exterior renovations to be substantially completed within six months and new construction to be completed within 18 months. This differs from the Florida Building Code, which allows a project to go on indefinitely if it undergoes an approved inspection every six months. The subject property was issued a permit in June 2014, which would require work to be completed by December 2014. The Applicant requested renewal of the building permit one month after this deadline and that CAP renewed it.

At that time, the Town did not have a procedure established for CAP to alert Code that the contractor had applied to renew the permit. Asst. Director Connors pointed out that she had since established a procedure so this shouldn't happen again.

She continued that in July 2015, Town Staff noticed that the subject property was still under construction. Code Enforcement informed the property owner at that time that an extension must be requested from the Town Commission, and a notice of violation was

sent to the owner. An extension was applied for at the end of August 2015. The Applicant is requesting the extension due to a change in the project's contractor, as well as the project being more comprehensive than originally estimated.

While fines would normally accrue from December 19, 2014, Town Staff recommends approval of the extension to the date upon which Staff first communicated with the Applicant, which is July 17, 2015 so that fines would accrue from that date forward.

Asst. Director Connors noted that the Town provides notice of the construction timeframe to every property owner as part of the paperwork issued with a permit. Town Manager Hoffmann added that the Applicant has requested an extension until November 24, 2015; however, building officials are not confident that the project would be complete by that date.

At this time Mayor Sasser opened public comment.

Chuck Clark, resident, stated that his property faces the subject property. He expressed that the Town Code is generally reasonable in terms of time and allowing for mitigating circumstances; however, he felt the project in question has gone beyond any such circumstances, and for too long. He characterized the subject property as an eyesore.

Bob Fleishman, resident, agreed that the property is an eyesore and that little significant progress has been made since renovation began. He did not feel the project would be completed by November 24, 2015.

Michael Armstrong, property owner, stated that he is working to improve the property, which will be his personal residence when complete. He described some of the recent renovations and improvements to the property and advised that foundation and permitting issues have been resolved. He concluded that the contractor is confident the project can be completed within 90 days.

Commissioner Brown recalled that a previous extension request was accommodated by extending the building permit to the day after the Commission meeting, waiving fines accumulated before that point, allowing the applicant a set number of days in which to complete work on the property, then allowing the applicant to come before the Commission for mitigation. He felt a similar solution would be appropriate in this case, extending the permit until September 29, 2015 and waiving any fines accumulated up to September 28, 2015, then come back before the Commission for the mitigation of any fines accrued between September 29, 2015 thru November 24, 2015. Commissioner Dodd stated that he was supportive of this proposed solution.

Mr. Armstrong described the foundation issues on the property and agreed that a previous contractor had not acted in a timely manner to complete the renovation. Vice Mayor Vincent observed that it may have taken some time for the Applicant to pick up the original permit once it was issued. He also agreed with Commissioner Brown's proposal, although

he was not certain all fees should be waived up to this point or no additional fees charged before November 24.

Commissioner Brown made a motion to extend the permit until September 29, 2015, and then regular fines would begin to accrue the next day, with the Applicant to request mitigation of fines at a later date if the project is completed by November 24.

Mayor Sasser requested clarification of whether the permit extension would require the Special Magistrate's Office to reestablish fines. Town Manager Hoffmann suggested that the motion direct Town Staff to communicate the Commission's wishes to the Special Magistrate, that fines not begin until November 29, 2015. Asst. Director Connors also clarified that this would not extend the building permit, which is covered by Florida Building Code, but reevaluating the deadline set by Section 6 of Town Code.

Vice Mayor Vincent explained that he did not agree with waiving the accrued fees due to the negative impact the building has had on the surrounding neighborhood. He emphasized that the Applicant should be required to come back before the Commission and request mitigation of the current fines.

Commissioner Brown withdrew his motion.

Vice Mayor Vincent made a motion, seconded by Commissioner Dodd, to approve Staff recommendation, which was that the construction period be extended to the date of notice of violation, July 17, 2015, rather than the requested date of November 24, 2015, with fines accruing until construction is complete Motion carried 4-0 (Mayor Sasser abstaining).

Commissioner Dodd cautioned that the Commission would take the Applicant's progress into consideration when reviewing any subsequent request for mitigation.

It was noted that Item 13c was voted upon earlier in the meeting.

14.COMMISSIONER COMMENTS

Commissioner Brown announced that new resident parking passes are available at Town Hall beginning September 29, 2015.

Mayor Sasser extended his condolences to the family and friends of former Lauderdale-By-The-Sea Mayor Oliver Parker, who recently passed away. He also noted that he will accompany a Florida League of Cities delegation to Washington, D.C. in support of several initiatives, including issues surrounding sober houses.

Commissioner Dodd reported that a budget was approved at the recent Hillsboro Inlet meeting. A follow-up meeting of the Coastal Oceans Task Force was held in order to

realize the maximum impact from a detailed report regarding runoff and groundwater pollution. He noted that in 2014 alone, the world lost one-fifth of its total coral reef area due to bleaching and stress.

Commissioner Dodd also expressed concern with the dredging of the Port of Miami, which he felt was environmentally irresponsible. This dredging has had a severe impact on 31 areas where crops of endangered staghorn coral may be affected. A thorough survey of the dredging area has not yet been conducted. He expressed concern that the Port Everglades dredging will have the same impact.

15. ORDINANCES

Ordinances 1st Reading

None.

Ordinances 2nd Reading

None.

16. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2015-43 – A Resolution of the Town of Lauderdale-By-The-Sea, Florida, providing for the appointment of the Fifth Member Selected by the Firefighters Pension Trust Fund Board of Trustees; providing for conflict, providing for an effective date (Connie Hoffmann, Town Manager)**

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

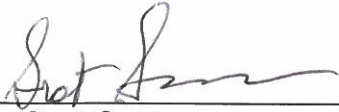
Vice Mayor Vincent made a motion, seconded by Commissioner Sokolow, to approve Jim Silverstone as the fifth member. Motion carried 5-0.

17. QUASI JUDICIAL PUBLIC HEARINGS

None.

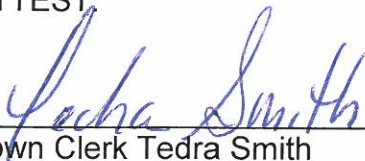
18.ADJOURNMENT

With no further business to come before the Commission at this time, the meeting was adjourned at 8:23 p.m.



Mayor Scot Sasser

ATTEST:



Town Clerk Tedra Smith

10/27/18

Date

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Sasser Scot</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Commissioner</i>	
MAILING ADDRESS <i>4501 N. Ocean Dr.</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Laud-By-The-Sea</i>		<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input checked="" type="checkbox"/> OTHER LOCAL AGENCY	
COUNTY <i>Broward</i>		NAME OF POLITICAL SUBDIVISION: <i>Town of Lauderdale-By-The-Sea</i>	
DATE ON WHICH VOTE OCCURRED <i>September 28, 2015</i>		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Mayor Scot Sasser, hereby disclose that on September 28, 20 15:

(a) A measure came or will come before my agency which (check one)

- ☒ inured to my special private gain or loss;
- ___ inured to the special gain or loss of my business associate, _____;
- ___ inured to the special gain or loss of my relative, _____;
- ___ inured to the special gain or loss of _____, by
whom I am retained; or
- ___ inured to the special gain or loss of _____, which
is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The address of my property is in very close proximity
to the property seeking construction extensions

Sept. 28, 2015
Date Filed

Scot S
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

